

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRYAN ALAN KENNERT,

Defendant.

Case No. 1:22-cr-36

Hon. Hala Y. Jarbou
Chief United States District Judge

**DEFENDANT’S RESPONSE IN PARTIAL OPPOSITION TO
GOVERNMENT’S MOTION FOR PRELIMINARY ORDER OF FORFEITURE**

Bryan Alan Kennert, by and through his attorney, Assistant Federal Public Defender Joanna C. Kloet, respectfully offers the following in partial opposition to the Government’s Motion for Preliminary Order of Forfeiture.

Mr. Kennert has no objection to the forfeiture of the items purchased from Mr. Kennert at the antiques market. These items are outlined in the indictment.

However, the sports memorabilia and related materials removed from Mr. Kennert’s house months later pursuant to a search warrant are not subject to forfeiture. First, the statutory authority cited by the government in its request for forfeiture applies to wire fraud if the wire fraud is part of racketeering activity. However, Mr. Kennert was not involved in any racketeering activity.

Furthermore, 18 U.S.C. § 981(a)(1)(C)—the government’s cited authority—allows for the forfeiture of proceeds or property derived from proceeds of the specified criminal offenses. The government has failed to show this required nexus. The government argues that Mr. Kennert has not had any verifiable employment over the last two decades. However, the PSR notes that “Mr.

Kennert has no verifiable employment **in the United States**” over this period. (ECF No. 23, Initial PSR, PageID.56). It appears that the PSR did not attempt to verify Mr. Kennert’s prior foreign employment. Moreover, Mr. Kennert worked assisting his mother in her antique business from approximately 2010 to 2018; however, the PSR was unable to verify this employment because of his mother’s death. *Id.*

Mr. Kennert lived with his mother while she was still alive, and she compensated him in exchange for providing her care. After her death, Mr. Kennert inherited the home where he now lives, and he conducted the sale of her estate assets to assist in his financial support. Finally, his adult nephew resided with him and paid Mr. Kennert rent. Mr. Kennert has been financially supported by several lawful sources over the past several years. Accordingly, the government has failed to demonstrate that proposed forfeiture is derived from the proceeds of the offense.

Additionally, a nexus does not exist between the items the government seeks in forfeiture and the offense, as required under the Federal Rule of Criminal Procedure 32.2. Mr. Kennert did not sell these items, he did not offer them for sale, he did not intend to sell them, and they were found in his house, not the marketplace where he was selling.

Respectfully submitted,

SHARON A. TUREK
Federal Public Defender

Dated: August 29, 2022

/s/ Joanna C. Kloet
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